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1 – ITC has few answers for community after Deer Park tank fires, ABC 13, 3/22/19

<https://abc13.com/itc-has-few-answers-for-community-after-deer-park-tank-fire/5211179/>

Thursday, we heard another tearful apology from the company at the center of this mess. Intercontinental Terminal Company spokesperson Alice Richardson told reporters through tears, "ITC cares. We care a lot. We have been good stewards, we've been good neighbors... We will fix it and we will make this right."

2 - Benzene spike detected near Deer Park plant; no shelter-in-place issued, Houston Chronicle, 3/22/19

<https://www.chron.com/news/houston-texas/houston/article/Benzene-spike-detected-near-Deer-Park-plant-No-13708409.php>

An air quality monitor near the Deer Park chemical storage facility where several tanks exploded and burned for days picked up a spike in benzene levels Friday morning, but officials say a shelter-in-place order isn't necessary.

3 - Deer Park fire investigations begin amid anxiety over emissions, pollution, Houston Chronicle, 3/22/19

<https://www.houstonchronicle.com/news/houston-texas/houston/article/Deer-Park-fire-investigations-begin-amid-anxiety-13707427.php>

The U.S. Chemical Safety Board on Wednesday announced it would investigate the three-day chemical blaze at the International Terminals Co., hours after emissions of carcinogenic benzene spiked near the Deer Park plant, prompting city officials to order residents to shelter in place for most of the morning.

4 - Researchers, local agencies collecting water samples from Galveston Bay after ITC fire, KHOU, 3/22/19

<https://www.khou.com/article/news/local/itc-fire/researchers-local-agencies-collecting-water-samples-from-galveston-bay-after-itc-fire/285-32a18b9d-d530-4ad9-8888-8bf38cfbbdb1>

The Environmental Defense Fund and Texas A&M University researchers said they will collect water samples from Galveston Bay to measure what pollutants might be flowing from the shipping channel near the ITC fire, according to the Associated Press.

5 - Shelter-in-place order lifted for Texas city where chemicals facility burned for 3 days, CBS News, 3/22/19

<https://www.cbsnews.com/news/deer-park-texas-chemicals-facility-fire-shelter-in-place-benzene-live-updates-2019-03-21/>

Authorities on Thursday lifted a shelter-in-place order hours after warning people to stay indoors because high levels of benzene were detected in the air near a scorched petrochemicals storage facility outside of Houston. Officials in Deer Park, Texas, said there was a sustained period of improved air quality readings in the area and lifted the order late Thursday morning.

6 – EPA, LDEQ want Mosaic to resume water removal from shifting gypsum stack, The Lens NOLA, 3/21/19

<https://thelensnola.org/2019/03/21/epa-ldeq-want-mosaic-to-resume-water-removal-from-shifting-gypsum-stack/>

The U.S. Environmental Protection Agency has asked Mosaic Fertilizer to resume removing wastewater from its reservoir atop its Gypsum Stack No. 4 in St. James Parish, despite the company reaching its objective of lowering that water below an elevation of 180 feet. But Mosaic told The Lens that the company has not decided to do so — even as the EPA cast doubt on the company's model used to determine the stability of the reservoir itself.

7 – Liquid livestock waste permit transfer causing a stink at the Arkansas Capitol, KATV, 3/21/19

<https://katv.com/news/local/liquid-livestock-waste-permit-transfer-causing-a-stink-at-the-arkansas-capitol>

An effort to move regulatory authority on liquid livestock waste permits over to another state entity is causing a stink at the Arkansas State Capitol.

8 - Department of Environmental Quality says Bella Vista fire will have to be dug up, Northwest Arkansas Democrat-Gazette, 3/22/19

<https://www.nwaonline.com/news/2019/mar/22/departement-of-environmental-quality-say/>

Putting out the underground landfill fire in Bella Vista will require digging the waste up, the state Department of Environmental Quality announced Thursday. "The site must be excavated to ensure that the underground fire is extinguished and will not reignite," the agency said in a statement released Thursday.

9 – New Mexico seeks to withdraw from federal water lawsuit, Santa Fe New Mexican, 3/22/19

https://www.santafenewmexican.com/news/local_news/new-mexico-seeks-to-withdraw-from-federal-water-lawsuit/article_db351f68-a393-5b0e-a63b-58e9eebcbe8c.html

The New Mexico Environment Department wants to withdraw from a lawsuit that challenges a U.S. Environmental Protection Agency rule initiated during the last term of President Barack Obama that significantly increased the amount of surface water subject to federal protections.

10 – Texas schools have dangerous levels of lead in drinking water, advocates say, Dallas Morning News, 3/21/19

<https://www.dallasnews.com/news/education/2019/03/21/texas-schools-dangerous-levels-lead-drinking-water-advocates-say>

Texas is failing students by not doing enough to protect them from dangerous levels of lead in drinking water, representatives from environmental groups said Thursday.

11 – Forecasters: ‘Potentially historic’ flooding threatens South, Mississippi Business Journal, 3/21/19

<https://msbusiness.com/2019/03/forecasters-potentially-historic-flooding-threatens-south/>

Scientists are warning that historic flooding could soon deluge parts of several Southern states along the lower Mississippi River, where floodwaters could persist for several weeks.

12 – In lawsuit, Arkansas farmers, landowners blame Corps for flood losses, Arkansas Democrat-Gazette, 3/22/19

<https://www.arkansasonline.com/news/2019/mar/22/farmers-suit-blames-corps-for-flood-loss-1/?news-arkansas>

A group of 131 Arkansas farmers and landowners who live and work along the White River and its tributaries -- mostly in Prairie and Monroe counties -- sued the federal government Thursday, saying the U.S. Army Corps of Engineers' management of the waterways has allowed floodwaters to destroy their livelihoods and homesteads.

TED OBERG INVESTIGATES

ITC has few answers for community after Deer Park tank fires

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ITC has had few answers to questions asked by Deer Park residents.

By [Ted Oberg](#)

Updated 5 minutes ago

DEER PARK, Texas (KTRK) -- Thursday, we heard another tearful apology from the company at the center of this mess. Intercontinental Terminal Company spokesperson Alice Richardson told reporters through tears, "ITC cares. We care a lot. We have been good stewards, we've been good neighbors. We will fix it and we will make this right."

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Before and after her tears, ITC's Richardson had few answers to the questions this community has.

13 Investigates' Ted Oberg asked Deer Park resident Michael Rodriguez, "When's the right time for the company to tell people in Deer Park what they're doing to clean this mess up and how it's happening?"

Rodriguez responded, "As soon as it starts happening and they haven't."

Deer Park - in the heart of refinery row - is no stranger to petrochemical incidents, and many residents suggest they are usually patient and understanding with companies in the midst of response. There were signs Thursday patience is evaporating.

Melissa Dalton, another resident who lived under the smoke cloud for the better part of the week asked, "Is this going to happen again? What are we going to do to prevent this from happening again? Are we safe?"

When asked how confident she was that ITC has that answer, Dalton replied, "Not very confident right now."

When asked about the health impacts, ITC's Richardson answered, "I am not a health expert, so I cannot do that."

Water test results, specific clean up measures including how long to remove the chemical in damaged tanks, proved mysteries at the company's Thursday news conference, too.

"We've heard a lot of 'I don't know's' today," 13 Investigates' Oberg asked Richardson. "With six school districts closed in two cities, sheltering in place, we need a little more of what you do know. If you can't tell us how long it's going to take to get the chemical out, how much chemical do you have in there?"

Richardson turned to the EPA representative, asking "Do you know that?"

Chemists say the only way to guard against another leak is to remove the chemicals.

The EPA's Adam Adams told reporters, "ITC is working as quickly as they can to, to resolve the issue."

Which put us back in the loop. When asked how long it would take to pump the troublesome chemical out, Richardson replied, "I can't tell you an exact time frame."

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Benzene spike detected near Deer Park plant; no shelter-in-place issued

By **Julian Gill** Published 7:57 am CDT, Friday, March 22, 2019

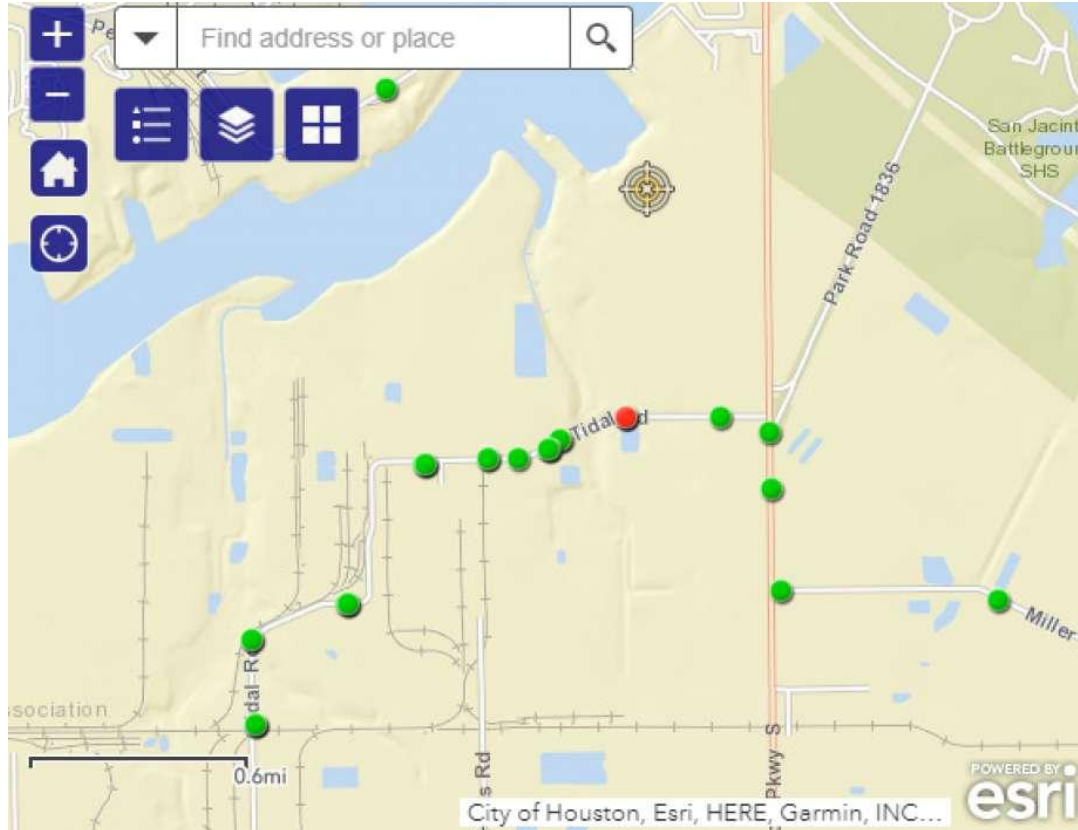


IMAGE 1 OF 103

The red dot on the map shows the monitor that picked up a spike in benzene readings near the Deer Park chemical storage facility on Friday morning. No other nearby monitors picked up elevated readings, and a shelter-in-place has not been recommended.

An air quality monitor near the Deer Park chemical storage facility where several tanks exploded and burned for days picked up a spike in benzene levels Friday morning, but officials say a shelter-in-place order isn't necessary.

At 4:38 a.m., the monitor located about 500 yards from the Intercontinental Terminals Co. tank farm that caught fire picked up a reading of 4.3 parts per million. The monitor was specifically testing for benzene.

That reading falls within the threshold of taking additional precautionary measures, according to the Harris County Emergency Management Office. Ordering a shelter in

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need for a public notice or shelter-in-place order due to elevated benzene readings, according to the agency.

"We've got no indication that there was any [benzene] spread anywhere else," the spokesman said.

ITC officials added, that as of 8 a.m., they don't know whether the readings have decreased on that monitor since this morning.

A monitor located about 800 west of that location picked up a benzene reading of .1 part per million around the same time. The monitor about 800 feet east picked up a reading

of .04 at its latest reading at 11 p.m. Thursday.

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H E A R S T

LOCAL // HOUSTON

Deer Park fire investigations begin amid anxiety over emissions, pollution

Zach Despart and Mike Morris

March 21, 2019 | Updated: March 21, 2019 9:06 p.m.



Runoff from the now-extinguished petrochemical tank fire at Intercontinental Terminals Company is blocked by an oil skimming bouy on Wednesday, March 20, 2019, in Deer Park. Fire crews extinguished the blaze at ITC about 3 a.m., Wednesday, almost four days after it started, which caused a plume of black smoke to linger over the Houston area. ...

Photo: Brett Coomer, Houston Chronicle / Staff photographer

The U.S. Chemical Safety Board on Wednesday announced it would investigate the three-day chemical blaze at the International Terminals Co., hours after emissions of carcinogenic benzene

spiked near the Deer Park plant, prompting city officials to order residents to shelter in place for most of the morning.

The independent federal agency, which also investigated the 2017 Arkema plant fire in Crosby, does not fine companies or issue violations. Instead, it conducts what is known as "root cause" investigations to determine how an incident occurred and make recommendations to the company, government regulators and other stakeholders on how to prevent it from happening again.

One CSB investigator already is in the area and two more will arrive next week once they can get access to the ITC site, according to CSB interim Executive Authority Kristen Kulinowski.

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In communities around the Houston Ship Channel, relief residents felt that the fire was out — and its miles-long dark plume of smoke dissipated — gave way to anxiety over the volatile compounds sitting in damaged tanks at the petroleum storage facility or streaming into nearby waterways.

With some nearby schools closed for another day, some local leaders grew exasperated with the company's handling of the incident. Precinct 2 Commissioner Adrian Garcia, who represents east Harris County, said he is disappointed ITC officials have not disclosed more information about the fire and its aftermath during the company's news conferences.

"They're an important part of the economy; we need to recognize that," Garcia said. "But this event demonstrates how one tank farm, on fire, can create destruction and impact the economy, can create fear, and to a certain extent, chaos."

State Rep. Brisco Cain, R-Baytown, issued a statement calling on the Texas House of Representatives to hold a hearing on the incident, which he called "devastating to our community."

"The nation has been captivated by dramatic images of flames and smoke plumes, but our community has had to deal with the very real questions about air and water quality while waiting for information from ITC. Our community deserves transparency and accountability as we recover from this incident," Cain said.

The section of the ship channel facility where the fire damaged 11 of 15 storage tanks sat covered in flame-retardant foam, which resembles a blanket of snow. The substance, used to fight stubborn chemical fires, is designed to deprive flammable compounds of oxygen.

The foam, however, is susceptible to wind shifts and evaporation. On Wednesday afternoon, a gap in the foam ignited into a fireball that crews quickly put out. The benzene leak early Thursday morning likely was caused by wind gusts that blew the foam off a tank containing roughly 40,000 barrels of pyrolysis gasoline, ITC spokeswoman Alice Richardson said at a morning news conference.

Pyrolysis gasoline, also known as “pygas” is a benzene-rich liquid byproduct that can be blended with other chemicals for use as a gasoline additive.

“This tank was compromised quite a bit,” Richardson said, adding that its roof and interior sealant had been destroyed by the fire.

Richardson declined to say whether residents near the burn site were safe and urged the public to heed warnings from safety officials. As she had in previous appearances before reporters, Richardson grew emotional while answering questions.

"ITC cares. We care a lot," she said through tears. "We have been good stewards. We have been good neighbors."

With the most immediate danger addressed — a raging blaze at a facility with more than 200 tanks of combustible chemicals — ITC now faces a more complicated set of challenges. Spokesman Dale Samuelson described the company’s options since the fire started Sunday as a “hostage choice,” though he said putting out the fire and attempting to contain leftover fuels is the least hazardous path forward.

“The issue with the foam being blown off the top of the pygas was a much lower risk than letting the tank farm burn, and run the risk of it jumping to other tanks, and the weather changing, and smoke coming down on residents in the area,” Samuelson said.

The smoldering burn site continued to radiate heat Thursday and the company had yet to determine when investigators may visit. Samuelson said to lower the risk of further flare-ups or chemical releases, crews carefully were siphoning fuel from the pygas tank to another part of the facility.

By 3 p.m., he said about 14,000 barrels of the volatile compound remained. The company has yet to disclose the volume of substances in other damaged tanks, which contain gasoline blends, base oils, xylene and naphtha. Samuelson said ITC is unable to estimate when the chemicals will be removed from the burn site.

As outside investigations begin, including a probe by the Harris County Fire Marshal's Office, more attention is shifting to how ITC could have prevented the incident from happening in the first place.

Such facilities should have a number of layers of protection to aid in that effort, said Jim Holste, interim director of the Mary Kay O'Connor Process Safety Center at Texas A&M University. The center is a worldwide authority on chemical safety.

Such protections, Holste said, would include frequent tank inspections should reveal leaks that can be addressed quickly, chemical detectors to find any leaks or problems with the tanks, and a foam-equipped fire suppression system to help put out smaller fires before they grow to infernos that can overwhelm local firefighters, as was the case in Deer Park.

"The whole intent is to contain it before it causes another sort of damage," Holste said.

Those who live in Deer Park spent Thursday wondering when their lives would regain a sense of normalcy.

At a Harris County Public Health mobile clinic, 26-year-old Ashley Elizondo arrived for a screening with her husband and 16-month-old daughter. The confusion of the shelter-in-place order, as well as mixed messages from ITC and local officials, have made assessing the situation difficult, Elizondo said.

"We just never knew what to do," she said. "At what point should we leave, should we stay?"

Ingrid Cortez, 35, loaded groceries into the bed of her truck on Thursday afternoon after a trip to Food Town. She said she was reluctant to leave her home, but needed provisions.

"You don't know what's coming next," Cortez said. "We might make a decision, maybe overnight, if we're going to leave. It's scary to be asleep and there's stuff going on."

Residents also have raised concerns about possible water pollution from the burned tanks, which sit on the south bank of Buffalo Bayou.

The Texas Commission on Environmental Quality first mentioned the collection of water samples Tuesday, and on Wednesday said a state contractor was working with the EPA, the Coast Guard, and an ITC contractor “to assess impacts of firefighting foam on waterways adjacent to the facility,” including Tucker Bayou and the Houston Ship Channel.

The agency had not released testing results as of Thursday afternoon, and a TCEQ web page devoted to the incident included references to air monitoring but no information about water quality. Latrice Babin, deputy director of the Harris County Pollution Control Services Department said her agency took water samples Thursday but had not yet received test results.

The lack of information about contamination downstream spurred the Galveston Bay Foundation, in partnership with the Environmental Defense Fund and Texas A&M, to begin taking water samples, President Bob Stokes said. The groups planned to begin sampling late Thursday or Friday morning.

“When we called them directly they weren’t willing to share any details,” Stokes said of the TCEQ. “I don’t think there’s been a lot of transparency on the water side to date. We’re concerned with all the things that might have run off that site. They’ve got it boomed at the base of Tucker Bayou, but those booms didn’t stop all water flow, and you can see a sheen outside the boom already.”

Stokes said he chiefly is concerned about the chemicals that burned and any byproducts produced when those materials combusted, as some of the substances known to be involved are toxic to marine life.

“We want to do a test for a wide spectrum of VOCs (volatile organic compounds) in the water,” he said. “We are entitled to understand what’s going on out there and then we can make conclusions about how big a problem it is.”

Jordan Macha, of the nonprofit Bayou City Waterkeeper, echoed that.

“We’re not entirely sure what the makeup is of the chemicals that have been used for the foam spray or what chemicals have been flowing down into the ship channel or, potentially, the bay,” she said. “What impact are they going to have on the nurseries and fisheries that operate and live in the bay?”

It's important for TCEQ to be fully transparent about the risks that are there and what they're doing to fix the problem.”

Staff writers Samantha Ketterer, Matt Dempsey, Nichole Hensley and Julian Gill contributed reporting.

zach.despart@chron.com

mike.morris@chron.com

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Shelter-in-place order lifted for Texas city where chemicals facility burned for 3 days

UPDATED ON: MARCH 21, 2019 / 9:42 PM / CBS/AP



Authorities on Thursday lifted a shelter-in-place order hours after warning people to stay indoors because high levels of benzene were detected in the air near a scorched petrochemicals storage facility outside of Houston. Officials in Deer Park, Texas, said there was a sustained period of improved air quality readings in the area and lifted the order late Thursday morning.

Firefighters on Wednesday extinguished the blaze at the Intercontinental Terminals Company in Deer Park, which started Sunday and destroyed several large tanks that contained gasoline and chemicals used in nail polish remover, glues and paint thinner. They continued to spray foam on the site Thursday to try to prevent flare-ups.

Officials said Wednesday that benzene levels near the facility didn't pose a health concern. But authorities issued the shelter-in-place order early Thursday due to "reports of benzene or other volatile organic compounds" in Deer Park, which is about 15 miles southeast of Houston.

Several school districts also canceled classes for the day due to the air quality concerns. Harris County Judge Lina Hidalgo, who is the county's top administrator, said at a news conference Thursday morning that light winds were helping to keep the vapors from spreading more broadly.

The county fire marshal, Laurie Christensen, said the benzene vapors may have been escaping from gaps in the foam that firefighters have been spraying to try to prevent flare-ups at the site. The Texas National Guard's 6th civil support team was assisting at the scene Thursday.

Area affected by shelter-in-place order around ITC plant in Deer Park, Texas early on March 21, 2019

KHOU-TV

The team of about a dozen was helping to contain hazardous materials and provide other assistance to local emergency responders. Environmental groups said residents who live near the facility have experienced various symptoms, including headaches, nausea and nose bleeds.

According to the Centers for Disease Control and Prevention, long-term exposure to the highly flammable chemical causes harmful effects to blood, including bone marrow. The Environmental Protection Agency conducted air quality tests throughout the Houston area, both on the ground and from a small airplane, and "measured no levels of hazardous concentrations," EPA official Adam Adams said Wednesday.

Some residents who live near the facility, though, said they didn't have confidence in the air quality test results. "I do not fully trust what they say," said Kristin Crump, who lives with her husband and two children less than two miles from ITC. "I do believe what is in the air is very harmful and it can have long-term

effects such as cancer and things like that later down the line. I don't think it's worth risking that for me or my kids to stay there and breathe in this stuff."

Crump, 31, placed damp wash cloths over her mouth and those of her 13- and 6-year-old children Thursday as they walked to their car to go stay with family elsewhere. Her husband later joined them.

The family also left the area Tuesday after the children complained of headaches, she said. They returned the next day.

Bryan Parras, an organizer in Houston with the Sierra Club, said his environmental group had concerns not just about the air quality, but about the potential impacts to the environment and the fishing industry if chemicals from the storage facility or firefighting foam get into the Houston Ship Channel, which

leads to the Gulf of Mexico. "This issue isn't over just because the fire is out. We want systems in place that will protect our communities," Parras said Wednesday.

The EPA and the Texas Commission on Environmental Quality said Wednesday that they were waiting for test results of water samples to determine any potential impacts from the foam used to fight the fire on waterways next to the storage facility, including the Houston Ship Channel.

First published on March 21, 2019 / 6:19 AM

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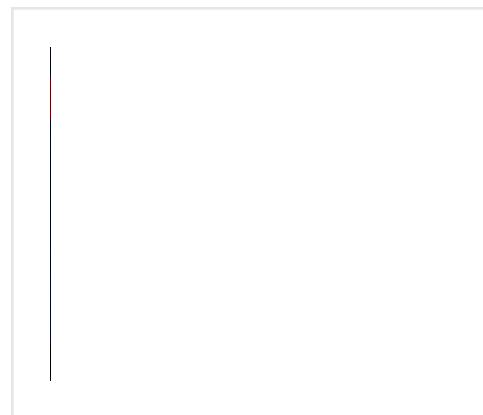


Researchers, local agencies collecting water samples from Galveston Bay after ITC fire

Officials encourage Deer Park residents who use wells north of 225 to have their water tested.

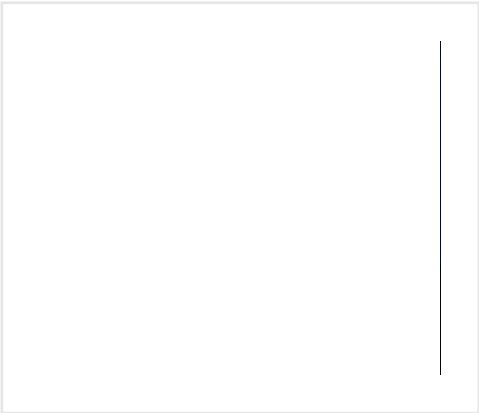
HOUSTON — The Environmental Defense Fund and Texas A&M University researchers said they will collect water samples from Galveston Bay to measure what pollutants might be flowing from the shipping channel near the ITC fire, according to the Associated Press.

The samples will be collected Friday and will be tested for such chemicals as benzene and toluene.



Elena Craft, a senior health scientist at the Environmental Defense Fund, said the researchers will get test results for most pollutants. She said samples will also be collected to test for perfluoroalkyl and polyfluoroalkyl compounds, or PFAS, which are found in foam firefighters were using Thursday to prevent flare-ups at ITC in Deer Park.

Those test results would not be available for a few weeks, the Associated Press reported.



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ITC spokesperson Alice Richardson gets emotional at ne...



In a statement Thursday, the City of Deer Park said the runoff foam and chemicals from the fire are not to the city’s drinking water quality. City officials said the city’s water supply is stored in a reservoir north of the Lynchburg Ferry and travels through a closed-pipe system.

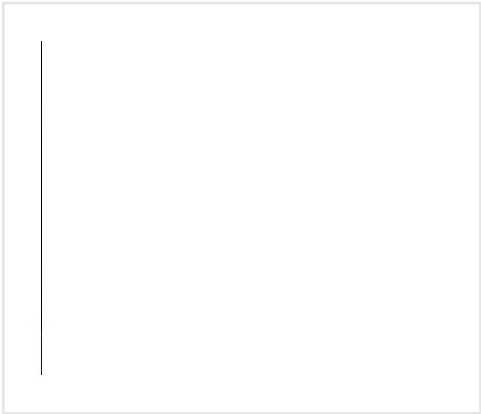
Laboratory tests revealed no evidence of benzene, according to officials.

Officials said the area north of Highway 225 drains toward the Houston Ship Channel, which they said used by any Houston-area public water system for drinking water, but they encouraged Deer Park residents who use those wells north of 225 to have their water tested before usage.

“Teams are looking out for and working to contain any chemicals that may be coming from the site, which include the industrial chemicals stored there and firefighting foam used to fight the fire and suppress vapors,” officials said in a statement.

TCEQ began sampling water Tuesday from Tucker Bayou to the Houston Ship Channel and at drainage outfalls near the facility.

“Collected samples were first submitted by TCEQ’s contractor to a certified water laboratory early Wednesday; however, results for certain compounds can take 24 hours while others can take as long as 48 hours, to be processed and finalized,” the statement reads.



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EPA, LDEQ want Mosaic to resume water removal from shifting gypsum stack

By Tom Wright, Staff writer 16 HOURS AGO



Jonathan Henderson / VanishingEarth.org/Southwings.org

A 2016 aerial photo of the Mosaic reservoir in St. James Parish.

The U.S. Environmental Protection Agency has asked Mosaic Fertilizer to resume removing wastewater from its reservoir atop its Gypsum Stack No. 4 in St. James Parish, despite the company reaching its objective of lowering that water below an elevation of 180 feet. But Mosaic told The Lens that the company has not decided to do so — even as the EPA cast doubt on the company’s model used to determine the stability of the reservoir itself.

Mosaic, the EPA and Louisiana’s Department of Environmental Quality have been [in emergency mode since Jan. 10](#), when the company first alerted the agencies to a bulge in some farmland neighboring the northern slope of the 200-ft-tall gypsum stack, which at the time held roughly 750 million gallons of highly acidic wastewater left over from production processes at the plant. It indicated shifting in the layers of soil beneath the stack and raised the possibility that the northern wall of the gypsum dam could breach.

The company had been removing much of that water from the top of Stack No. 4, with the aim of lowering the water level's elevation, easing the weight of the water stored and reducing the chance that a wall breach could pour much of the wastewater into nearby waterways, including the Blind River.

In a Mar. 15 letter to Mosaic, Cheryl Seager, EPA Region 6's director of compliance assurance and enforcement, noted that the company had worked to reduce the water levels to a level of 180 feet. Based on a stability evaluation performed by a third party, the engineering firm Ardaman & Associates, the company said that level would be adequate to stabilize the stack.

Ardaman believes, based on its modeling, that “a breach at or below the 180-foot elevation will not result in a release of process water outside the stack,” the letter stated.

As of Mosaic’s [daily situation report on Tuesday](#), the latest available in LDEQ records, the level of the water atop Stack No. 4 was 179.9 feet, and a little over 402 million gallons in volume.

But Seager wrote that EPA and LDEQ remain concerned about the stability of Stack No. 4.

“Although stack movement has slowed over the past few weeks, it still continues at a rate such that movement expected in one year (1/2”) is observed in just 2 or 3 days,” she said. “Extrapolation from the current data suggests that movement may not stop for another 100 days.”

Seager went on to say that such a rate of underground movement means the stack “remains in a slow failure mode,” even with the water at a 180-foot level.

“Because the stability model does not appear to be correctly predicting stack stability,” Seager wrote, “and we still have not physically identified the location where the failure surface encounters the surface” — an apparent reference to the point underground where the clay layers are shifting — “there remains the possibility that the failure surface starting point is farther south than predicted,” she wrote. “For these reasons, EPA, with the concurrence of LDEQ, is asking that Mosaic continue to decant water from Stack 4 until the elevation is below 179 feet. We will evaluate the data again when the elevation reaches that level or below.”

It doesn’t appear that Mosaic is immediately agreeing to that request.

“We are in constructive discussions with the agencies about possible further water transfers,” wrote Callie Neslund, Mosaic’s director of public and governmental affairs, in a Thursday statement to The Lens. “No decision has been made yet, and those discussions continue.”

Throughout the crisis at Stack No. 4, Mosaic has shifted millions of gallons to other ponds at its plant site in Convent. It has at least five such ponds of assorted sizes now, including the new “East Cell” pond, which has a capacity of about 483 million gallons and was completed in early March.

Mosaic began transferring water from the pond atop Stack No. 4 to the East Cell on March 7, but suspended the transfer on Friday, the same day that EPA dated its letter requesting that the transfer operation be resumed, according to the daily situation report.

The EPA referenced its view that the “stack remains in a slow failure mode, implying a safety factor below unity.” Ardaman’s modelling suggests, with the Stack No. 4 water level at a 180-ft. elevation, that the safety factor is at 1.10.

Such safety factors in the engineering sense represent calculations of the forces that a dam such as the gypsum wall can sustain, according to Dr. John Christian, a professor of civil and environmental engineering at the University of Massachusetts Lowell.

“You take the strength, if you will, of the dam and divide it by what the loads are that you expect to have to carry,” he told The Lens. “And if that number is greater than 1, that indicates that you think the available resistance is larger than the force that it’s going to have to carry.”

A safety factor below unity is less than 1.0. “Obviously, you don’t want to get there,” Christian said. “Getting down to 1.0 clearly indicates that you’re in trouble.”

Concern about a potential dam breach has focused on [the potential environmental impact](#) on Blind River, which biologists and other scientists have warned could kill a wide range of animals and vegetation as the river drains into Lake Maurepas in the Lake Pontchartrain Basin. The water itself has a pH factor between 2 and 3, which is a dangerous level of acidity to put into an environment that has not evolved to handle it.

Mosaic’s worst-case scenario assumed that any breach would likely occur toward the top of the northern wall, about 185 feet above grade. Their modeling assumed that up to 159 million gallons might escape over a seven-day period, but that such a volume would be held on site by berms and blocked culverts along two nearby highways, LA 3214 and LA 3125.



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Liquid livestock waste permit transfer causing a stink at the Arkansas Capitol

by Marine Glisovic
Thursday, March 21st 2019



*An effort to move regulatory authority on liquid livestock waste permits over to another state entity is causing a stink at the Arkansas State Capitol.
(Photo: C&H Hog Farms)*

LITTLE ROCK (KATV) — An effort to move regulatory authority on liquid livestock waste permits over to another state entity is causing a stink at the Arkansas State Capitol.



Commission.

The Central Arkansas Water system is opposing this bill because it doesn't guarantee the same standards and protocols will be used.

"The bill as its currently written doesn't really restrict where it can go," said Randy Easley, CAW's Director of Water Quality." "We're concerned about our watershed so potentially those liquid waste could then be put in other areas particularly of interest to drinking water utilities that are more sensitive to some pollutants."



On Wednesday, the director of ADEQ received a letter from the United States Environmental Protection Agency stating they were keeping a close eye on the legislation. The letter also states that if adopted, the EPA would need to further review if the state program possesses adequate authority to issue permits while still complying with the Clean Water Act.

An ADEQ spokesperson told KATV they're also concerned and released this statement:

"ADEQ has a number of significant and technical concerns about SB550. ADEQ agrees with EPA that SB550 raises concerns regarding potential impacts to state programs and ADEQ's delegated authority to protect water quality. The Arkansas program to protect water quality must remain at least as stringent as federal requirements and this bill does not provide adequate assurances that it will satisfy EPA requirements."

The Arkansas Farm Bureau, who is pushing for this legislation, claims it's about making the permitting process easier for hog, dairy and poultry farmers.

"We've had farmers for the last 15-20 years looking to see a simplification in their permitting process," said AFB's governmental relations spokesperson, Matt King. "We're not talking about reducing any regulations or anything like that. Right now you have farmers who have both a hog farm and poultry farm and even some dairies that are having to go to one agency to get this permit, another agency to get another permit."

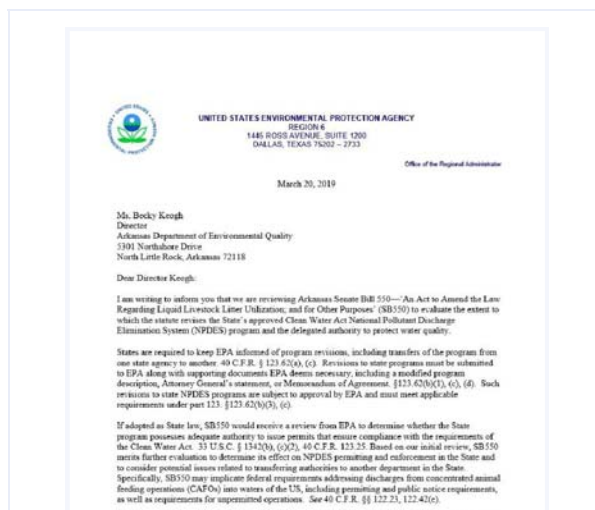


"It is important that adequate protections remain in place so that we can continue our diligent work to protect the Buffalo National River. Historically, the Arkansas Department of Environmental Quality (ADEQ) has been the agency of record for this type of permitting, and they already have the necessary expertise in place to make a determination on a Regulation 5 application. I am confident in the current process at ADEQ, and I continue to have reservations with regard to SB550 and the transfer of Regulation 5 permitting authority from the ADEQ to the Arkansas Natural Resource Commission (ANRC). I will continue to monitor this legislation closely."

SB550 passed through the Arkansas Senate on Tuesday.

View the letter from the EPA to the ADEQ on SB550 below:

[EPA LETTER](#) by [KATV](#) on Scribd



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Department of Environmental Quality says Bella Vista fire will have to be dug up Closed dumps a Northwest Arkansas risk, Womack says

by [Doug Thompson](#) | Today at 1:05 a.m.

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NWA Democrat-Gazette/CHARLIE KAIJO The fire at the Bella Vista stump dump off Trafalgar Road continues to smolder as shown in this March 15 photo.

Putting out the underground landfill fire in Bella Vista will require digging the waste up, the state Department of Environmental Quality announced Thursday.

"The site must be excavated to ensure that the underground fire is extinguished and will not reignite," the agency said in a statement released Thursday. "An estimated 175,000--225,000 cubic yards of waste will be excavated."

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The Plan

To the state's plan to extinguish the sump dump fire in Bella Vista, go to www.adeq.state.ar.us/bella-vista.

Source: Arkansas Department of Environmental Quality

For comparison purposes, if a football field including the end zones was dug out one yard deep, it would amount to 6,400 cubic yards. Therefore, the mount of landfill to be excavated is estimated to be between 27 and 35 times that amount, figures show.

Firefighters discovered the underground fire at a stump dump on Trafalgar Road in Bella Vista on July 29. The dump is still burning.

The department has posted a copy of the proposed plan online and will take public comment on it until the end of the business day on April 5. The plan is at www.adeq.state.ar.us/bella-vista.

A contractor hasn't been selected yet, according to the plan as posted.

Most of the waste in the landfill is expected to be wood waste, according to the department's statement. This will be disposed of on-site using specialized "burn boxes," the plan states. A curtain of air at each box will keep as much of the smoke as possible from rising and escaping, according to the department's statement. The smoke from the burn boxes is recirculated within the boxes and through the fire until almost all of the particles in smoke are consumed, according to the department's plan. The alternative of hauling the wood waste to an approved landfill would cost between \$11.3 million and \$15 million, the department estimates.

The plan states a goal of getting the fire contained -- restricted to within the air-curtain boxes -- within 30 days of the excavation starting. No projected start date or overall cost estimate is given.

"There may be up to five of these burn units in use at any given time, and the proposal includes a 24/7 operation in order to achieve the complete solution in a timely manner of approximately 180 days," the plan states. Air quality monitoring will continue throughout the process, the plan states.

Soil, ash and any other natural residual material will stay on site, the department statement said, while metal, tires, construction material and any hazardous substances will be hauled away and disposed of off-site. "ADEQ would expect that excavation and sorting activities would be conducted only during daylight hours," the plan says.

ARTICLE CONTINUES BELOW

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The site will be replanted with trees, grass and other ground cover native to the region after the waste is dealt with, the plan states.

In a related matter, Rep. Steve Womack of Rogers took questions about the situation in an interview in Springdale, hours before the Environmental Quality Department's plan was announced.

The still-burning dump isn't the only site where stumps and other debris from land clearings went into some hollow in Northwest Arkansas during booming times for construction, Womack said.

"Ravines and materials nobody wants have a way of finding each other," said Womack, Republican and a former mayor of Rogers. Other towns in the region someday could find themselves in the same situation Bella Vista faces today, he said.

The situation also reveals a regional gap, a problem too big for a city to handle by itself but doesn't cross the "bright lines" of qualifying as an environmental disaster needed to trigger a federal response, at least not yet, Womack said. That leaves the burden on the state until responsibility and liability can be sorted out in court, Womack said. He spoke before addressing a crowd of about 80 at the Springdale Noon Kiwanis Club at the Western Sizzlin' restaurant in Springdale.

Bella Vista "Mayor [Peter] Christie has done everything in his power to remedy this situation. As a former mayor, I admire the way he has handled this unexpected issue," Womack said. "But his city doesn't have the money or the manpower to fix this and the civil process to make those responsible pay will take a long time. This is an emergency."

Residents near the fire were urged in December to avoid prolonged or heavy exertion outdoors after an unhealthy air quality reading in the area. The state continues to caution people living within a half-mile radius of the blaze, although recent testing has shown air quality results in the "good" range.

Womack and other members of the Arkansas congressional delegation have talked with both the acting and regional directors of the federal Environmental Protection Agency, among others, about the situation. "There are some pretty bright lines about what it takes to get the EPA involved, and those lines have not been crossed yet," Womack said. Those requirements include factors such as high toxicity, immediate threat to human life, or permanent potential damage to the environment. The EPA is closely watching the situation and will react quickly if any of those triggers are met, he said.

"It's on the EPA's radar but not on their plate," he said.

The state Department of Environmental Quality received \$20 million, drawn from different state government reserve funds, to get work started on putting out the fire. The Legislature is meeting in regular session this year, making it possible to pass an emergency supplemental appropriation. The governor signed the legislation March 11. Site preparation already began before the act passed.

The cost to put out the fire and clean the site could be between \$21 million and \$39 million, according to state estimates. The state expects to recoup money spent putting out the fire from past owners and operators of the landfill, according to a spokesman for the governor's office.

At least two lawsuits are already pending against prior owners and operators, according to Benton County Circuit Court records. The first was filed in November on behalf of Bella Vista residents Curtis and Tiffany Macomber and their sons, Ezra and Trevor. Bella Vista resident Jim Parsons is also suing.

Defendants named by at least one of the two lawsuits include: Cooper Communities, the Bella Vista Property Owners Association, Thomas Fredericks, Fredericks Construction and Blue Mountain Storage;

and Samuel Care Enterprise, doing business as Brown's Tree Care. The state Environmental Quality Department is also named as a defendant in Parsons' suit.

NW News on 03/22/2019

Print Headline: State says Bella Vista fire will be dug up

Topics

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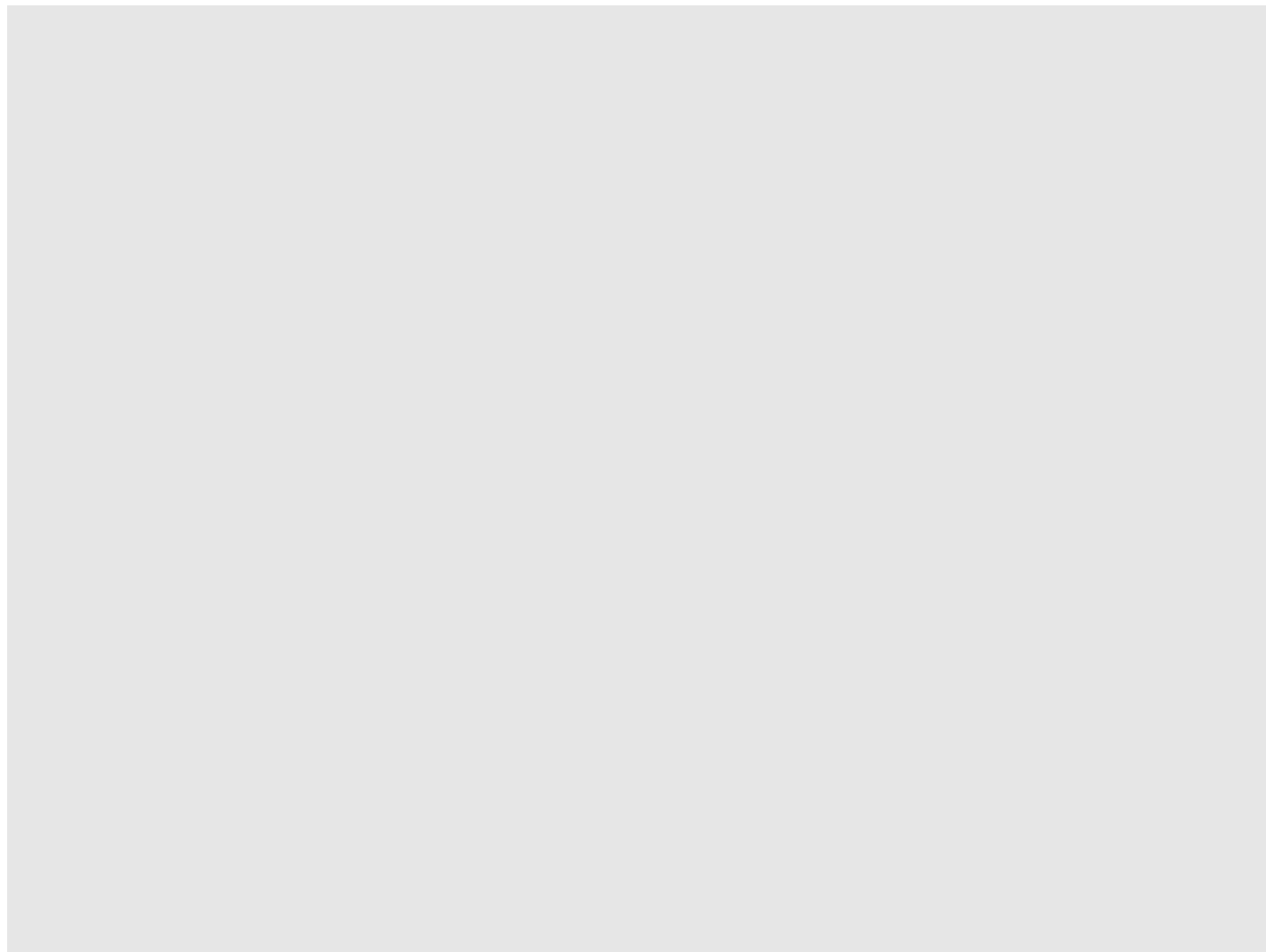


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New Mexico seeks to withdraw from federal water lawsuit

By Steve Terrell | sterrell@sfnewmexican.com Mar 21, 2019 Updated 10 hrs ago

The New Mexico Environment Department wants to withdraw from a lawsuit that challenges a U.S. Environmental Protection Agency rule initiated during the last term of President Barack Obama that significantly increased the amount of surface water subject to federal protections.

However that lawsuit, which New Mexico joined during the administration of Republican Gov. Susana Martinez, might soon become moot.

The administration of President Donald Trump has proposed rescinding the previous administration's "Waters of the U.S." rule.

"New Mexicans understand the value of water as a natural and cultural resource," state Environment Department Secretary James Kenney said in a statement Thursday announcing the plan to drop out of the federal litigation. "Ephemeral streams, wetlands and groundwater are equally as important as the Rio Grande River. All of our state's precious water resources must be afforded robust legal protections."

The EPA is accepting public comments on newly proposed changes to the rule through April 15. The state Environment Department is working on comments to submit to the federal agency, the news release said.

Plaintiffs in the suit challenging the 2015 rule include about a dozen² mostly Western states and several business and agricultural organizations. Earlier this month, Michigan withdrew from the litigation.

The Waters of the U.S. rule was controversial from the start. Congress voted to block it in 2015. Later that year, just hours before the rule was to take effect, a federal judge in North Dakota issued a preliminary injunction to block it in the states involved in the case. That was followed by a ruling from the Cincinnati-based 6th Circuit Court of Appeals that blocked the rule nationwide.

But in January 2018, the U.S. Supreme Court overturned the 6th Circuit Court, ruling the appeals court didn't have jurisdiction to block the water rule.

New Mexico rivers such as the Rio Grande and the Pecos are fed by small tributaries that much of the time are dry. Before the rule change, industrial activity near those streams — construction, for example — didn't have to comply with federal regulations for stormwater pollution. Yet a sudden storm could send chemical runoff from a work site rushing down a formerly dry stream and into the river.

A 2014 state Environment Department study of hydrology data found that 93.6 percent of New Mexico's surface waters are intermittent or ephemeral.

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EDUCATION 16 HRS AGO

Texas schools have dangerous levels of lead in drinking water, advocates say



Eva-Marie Ayala, Staff Writer

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Update 4:51 p.m.: This story has been updated to include information about the Dallas school district.

Texas is failing students by not doing enough to protect them from dangerous levels of lead in drinking water, representatives from environmental groups said Thursday.

Nearly two-thirds of the 500 North Texas-area schools whose water quality is readily available have lead contamination, said Ray Scoggin, director of the Texas Public Interest Research Group.

“We can do better than that,” said Scoggin, standing outside of Dallas’ Bryan Adams High School.

Scoggin praised the [Dallas school district](#) for voluntarily testing their water regularly and taking action when results show lead levels above 15 parts per billion. But he pointed out that the federal Environmental Protection Agency has stated that there’s no safe level of lead.

Adams, for example, had results showing as much as 13 ppb at the school, Scoggin said.

The EPA generally requires action if levels are at least 15 parts per billion, or ppb, in water though schools typically don’t have to meet that standard and aren’t required to test.

The environmental groups urged lawmakers to pass a bill by James Talarico, D-Round Rock, that would define an elevated level as 1 ppb in Texas and would require, among other things, that schools and childcare facilities have a plan of action to prevent and address lead contamination.

“No parent should have to worry about their child drinking from a school water fountain,” Talarico said in a statement issued about his bill.

Across the country, schools and cities have struggled with aging infrastructure and equipment that contribute to high levels of lead. Water quality concerns rose after the crisis in Flint, Mich.

Research has shown prolonged exposure to lead can have serious health effects, particularly in brain development among children.

In 2016, the Fort Worth school district found widespread problems of lead in dozens of its schools. Many districts across the state, including Dallas, soon began testing as well.

DISD and other districts have replaced equipment, added filters for water fountains and used



Eva-Marie Ayala
@EvaMarieAyala

“Texas is still failing to keep lead out of our drinking water in schools.” [#txlege](#) [#txed](#) [#waterquality](#)

2 11:07 AM - Mar 21, 2019

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Molly Rooke, a volunteer with the Dallas Sierra Club, urged Dallas ISD and other districts to be more proactive in replacing and retrofitting drinking fountains and water sources used for cooking in schools.

“Let’s stop waiting for tests to confirm that our children have been drinking water laced with lead and, instead, take immediate steps to get the lead out,” she said.

Meanwhile, Dallas school officials say they are trying to be strategic in their approach. Scott Layne, deputy superintendent of operations, said DISD tested all its facilities from 2016 to 2018. About a dozen schools had issues that were addressed, Layne said.

The district will resume testing again this summer. Layne said the goal is to get on a testing

Forecasters: ‘Potentially historic’ flooding threatens South

Posted by: Ross Reilly in NEWS March 21, 2019

Scientists are warning that historic flooding could soon deluge parts of several Southern states along the lower Mississippi River, where floodwaters could persist for several weeks.

The flood threat in the South will be discussed Thursday, when the National Oceanic and Atmospheric Administration releases its 2019 spring outlook. Experts plan a briefing on their flood forecast at the National Water Center in Tuscaloosa, Alabama.

Thursday’s report is aimed at helping emergency managers and other safety officials to prepare for flooding.

Flooding in Southern states this spring will be “potentially historic,” NOAA said in an advisory.

Rapidly melting snow in the upper Midwest is contributing to flooding that will eventually make its way downstream to the Gulf Coast, forecasters have said.

The expected surge of water from the north is unwelcome news in parts of Mississippi. In the western part of that state, the Mississippi River is already swollen and has been flooding some communities unprotected by levees since last month.

One Mississippi region protected by levees is also flooding. That’s because smaller rivers can’t drain into the Mississippi River as normal because a floodgate that protects the region from even worse flooding by the big river has been closed since Feb. 15.

» READ MORE —ROSS REILY: EPA should have historical background of Delta

Around Rolling Fork, Mississippi, townspeople first noticed water rising from swamps near the Mississippi River in late February. The water eventually invaded some homes in that community, about 40 miles (65 kilometers) north of Vicksburg.

Major flooding is already occurring this week on the Mississippi River near several Southern cities including Arkansas City, Arkansas; Natchez, Mississippi; and Baton Rouge, Louisiana, according to river gauges and data from NOAA.

The specter of major flooding on the Mississippi River upstream from New Orleans is a more perilous situation now than in years past, some researchers believe. That’s partly because the river floor has risen significantly higher over the years as sediment has collected in the river bottom, Louisiana State University hydrologist Yi-Jun Xu found.

The situation is so serious that Xu believes a “mega flood” could overpower a giant flood control structure north of New Orleans and send the Mississippi River rushing down another path entirely and creating a new route to the Gulf of Mexico. That would allow the Gulf to push saltwater upstream into the river, ruining the drinking water supply for metropolitan New Orleans, according to a summary of Xu’s 2017 presentation to the American Geophysical Union.



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In lawsuit, Arkansas farmers, landowners blame Corps for flood losses

by [Linda Satter](#) | Today at 4:30 a.m.



COMMENTS

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A group of 131 Arkansas farmers and landowners who live and work along the White River and its tributaries -- mostly in Prairie and Monroe counties -- sued the federal government Thursday, saying the U.S. Army Corps of Engineers' management of the waterways has allowed floodwaters to destroy their livelihoods and homesteads.

Filed in the U.S. Court of Federal Claims in Washington, D.C., the lawsuit alleges that the Corps' "deliberate departure" from flood-control policies to policies favoring recreational and environmental concerns has constituted an illegal taking of their land without compensation.

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Rather than trying to change the Corps' methods, saying most of the damage is already done, the plaintiffs are seeking monetary compensation.

Attorney Chad Pekron, who filed the suit on behalf of the residents and business operators, said the flooding that has resulted from the Corps' unannounced releases of water at higher elevations and other management decisions over a period of several years has affected tens of thousands of acres, and with it, generations of hard work and family legacies.



"By this point, it has become apparent that the Corps isn't going to change its policy," Pekron said, explaining why the farmers have now decided to take action. "This isn't just a temporary invasion of their property. And under the Constitution, property is not to be taken without just compensation."

After the lawsuit was filed in late afternoon, the public affairs office of the Corps' office in Little Rock was already closed, preventing any immediate comment on the litigation.

The lead plaintiff, Jimmy Baxter of Biscoe in Prairie County, said the Corps has never announced or publicly acknowledged that its policies have changed drastically over the decades, particularly in the past 10 years, but his research showed that the agency's gradual departure from its original flood-control mission is behind the bouts of increased flooding in recent years.

Baxter and his brother farm about 4,000 acres in Prairie, Woodruff and Monroe counties, following in the footsteps of his late grandfather, who started farming in the area in 1949 and retired after 43 years in 1992.

He said his grandfather lost part of one crop in 1984 because of flooding, and that "just about did him in."

"Now," he said, "I've lost five of the last 10 crops. If it weren't for the matter of it being part of our heritage and generations tied up in this, it's almost not worth it."

He farms soybeans, rice, wheat, and other crops on the low-lying land.

"There were 36 farms when I was a kid in this town. Now there's four of us," he said.

Baxter said the Corps used to discharge water in the area every November or December, which duck-hunters enjoyed and the farmers didn't mind because it recharged the soil, making it fertile for spring

planting. Now, he said, "they hold all that water till springtime, when we're out there trying to put a crop in."

Since 2008, he said, "the only year we haven't had a spring flood was 2012."

Baxter said the inundations puzzled him, prompting him to wonder if global warming was somehow to blame, until he researched weather patterns and learned that rainfall amounts had basically stayed the same from year to year. He said it soon became apparent that changes the Corps made to the amount of water it held in conservation pools and flood pools was the culprit.

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"It just kicked us in the teeth," he said of the unannounced change. He added, "Farms and homes don't take precedence anymore. But we're realistic. If the economic value of recreation is more important than farming, just pay us for what you're costing us."

Meanwhile, he said, noting that it takes a lifetime and costs a fortune to build a farm by gradually leasing acres, he tells his children that if they want to farm, they must first "learn a marketable trade" to fall back on.

"When I got out of college, I had saved every nickel I made for 10 years so me and my brother could start our own farm," Baxter said. He worked as an accountant and his brother worked as a machinist until they had enough money to take over their grandfather's farm. During that time, he said, he would come home from work at 3 p.m. and immediately jump on a tractor. Then his brother would get off work at 3 a.m and take over, with neither of them getting much sleep while they gradually built their business.

The lawsuit takes issue with "a significant and deliberated departure" by the Corps "from its longstanding policies and practices regarding the management of the White River and its tributaries, including but not limited to, the Black River, Cache River, and Little Red River ..., and the six flood control reservoirs and dams located within the White River Basin."

It says that in order to provide "the highest quality, year-round public recreation," the Corps changed its practices "despite knowing that the direct, natural, probable and foreseeable result of that departure would be increasingly frequent, prolonged, and severe flooding" of the plaintiffs' property.

The lawsuit asserts, "But for the Corps' departure from its longstanding flood-control policies and procedures, most -- if not all -- of this prolonged flooding would not have occurred." Any flooding that would have occurred under the Corps' prior policies and procedures would have been minimal in comparison, it says.

The change, the suit says, "was part of a multi-year process to appropriate a benefit for the public; namely, to increase quality year-round recreation within the River System's reservoirs and tail waters, and to preserve wetlands in the Basin."

The lawsuit lays out the history of the flood-control system for the Basin, starting in the mid-1800s, when the federal government had "little to no involvement with flood control efforts." It says that in 1929, Congress vested the Corps with authority over flood control matters, and in the Flood Control Act of 1936, declared floods a federal responsibility.

After the completion of reservoirs and dams, the government's flood-control policies, as implemented by the Corps, "opened the way for extensive growth and development of the Basin, especially for agriculture," the lawsuit states.

Following the government's lead, "Our clients have spent substantial amounts of money buying and developing the land for agricultural uses," said Pekron, who is with the Quattlebaum, Grooms & Tull law firm in Little Rock.

"The Corps' changes to its flood-control policies and operations with the Basin ... have led to repeated, atypical, and longer durations of flooding of thousands of acres, ... causing severe and unprecedented losses" to the plaintiffs, the suit alleges.

The suit cites findings from the University of Arkansas' Agriculture Division that flooding in 2011 resulted in about \$335 million in flood damage to Arkansas farmers, while 2016 flooding caused an estimated \$50 million in damage, and flooding in early 2017 caused an estimated \$175 million in damage, as well as adversely affecting farming operations on nearly 1 million acres.

Metro on 03/22/2019

Print Headline: In lawsuit, Arkansas farmers, landowners blame Corps for flood losses

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COMMENTARY 14 HRS AGO

Judge shuts down Shingle Mountain in southern Dallas until, at least, early April



Robert Wilonsky, City Columnist

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Shingle Mountain is closed. For two weeks, at least.

That's the good word out of the 191st Civil District Court. After a hearing Thursday afternoon, Judge Gena Slaughter signed the order that gave Dallas City Hall what it wants — a temporary restraining order that stops Blue Star Recycling from bringing more shingles onto the company's property off S. Central Expressway.

won't be allowed to grow.



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By Eargo



DALLAS CITY COUNCIL

City Hall finally goes after southern Dallas shingle recycler, alleging 'large-scale illegal dumping'

Scott Deatherage, Blue Star's attorney, told Slaughter during Thursday's hearing that shutting down the recycler even temporarily would kill the business. He said a temporary restraining order was merited only if something is "so bad something has to be done, it's awful."

This, he said, was not that, because he had been out there on a windy day and saw no black dust swirling in the air, as residents and city inspectors insist.

It appears the judge took the attorney's observation with a grain of shingle.

The hearing came three months after City Hall and Blue Star first met in court, and the recyclers' attorneys agreed to a temporary timeout while they got the proper stormwater permits and cleaned up their mess behind Marsha Jackson's house of 23 years. But aside from a few changes out there --some shingles dug out of a Five Mile Creek tributary, some concrete blocks and hay laid down along the river banks to keep trash from flowing into the water -- Shingle Mountain kept growing.



COMMENTARY

'It's unacceptable': Why a Dallas woman lives next to mountains of ground-up shingles

And Marsha Jackson and her grandchildren and her neighbors and their kids complained about getting sick and coughing up "black stuff."

On Wednesday, activists known as Southern Sector Rising took over City Hall's Flag Room and demanded the city clean up or shut down Blue Star. On Thursday, they got what they wanted. But I would not recommend taking a deep breath. Not out there. And not yet.

Photo Gallery

1/3



But Slaughter's decision was welcome news for council member Tennell Atkins, who was in the courtroom Thursday. He said the ruling moves the case "in the right direction." Jackson's plight also attracted to the hearing State Sen. Royce West, D-Dallas, and interim City Attorney Chris Caso, who almost never shows at hearings like this.

What Blue Star is growing out there, West said, is "clear abuse."

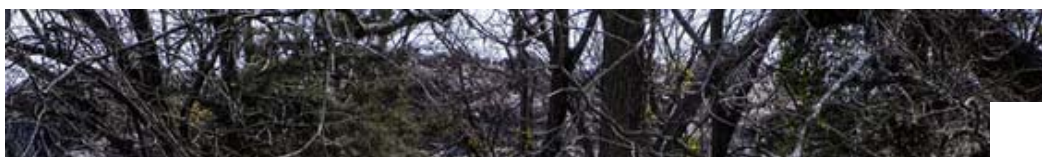
Jayla Wilkerson, a senior assistant city attorney who specialized in environmental issues, made the city's case. Right away, Judge Slaughter — her short hair dyed a bright shade of magenta — wanted to know if the detritus, ground or raw, was "creating a cloud" or "escaping" into the air or onto neighboring properties. Yes, said Wilkerson — "all that and more."

She told the judge there was grit in the air that you can see and feel, that "caused an itching" when it came into contact with skin. She warned, too, of "fugitive shingle matter" straying into the creek and onto the residential properties behind Shingle Mountain.

Wilkerson showed photos from the city's Dec. 13 inspection, and others from an early March look-see. She told the judge what no photo can clearly show: "The quantity of materials has grown exponentially. I don't know how to quantify it. It's *huge*."

According to a notice of intent Blue Star co-owner Chris Ganter filed with TCEQ more than a year ago, the recycler intended to keep 260 tons of combustible material on site. But by Blue Star's own estimation, according to the TCEQ in December there were 47,150 tons of raw shingles on the property, and 7,000 tons of ground shingles ready to be turned into asphalt.

"And that excess is growing daily," Wilkerson said.





(Smiley N. Pool/Staff F

Of this there is no doubt: When I first started visiting Shingle Mountain in December you could only see the pile of raw shingles once you pulled onto Choate Road from S. Central. But now it's visible from Interstate 45, becoming this city's worst tourist attraction.

Deatherage said Blue Star hasn't moved much material because of the cold weather, and that business is starting to pick up. He said, too, that Chris Ganter, who lives in Collin County, and the other owners hoped to open more complexes like this one throughout the area, which would spread the shingles so they didn't pile up in one place. But the lawsuit made that a difficult proposition, Deatherage said.

I looked over at environmental activist Jim Schermbeck, who first told me about Jackson and Shingle Mountain in December. He was jotting down notes in his omnipresent legal pad. He was grinning.

"That business plan kinda went out the window," Schermbeck told me later.



COMMENTARY

In southeast Dallas, along a creek and behind homes, that 'grotesque' Shingle Mountain keeps growing

Deatherage also said the creek behind Jackson's house was really only a ditch, and he repeatedly came back to the same argument: His clients didn't know what they needed when they opened, and they were trying their best.

"Not everybody's an environmental expert," said Deatherage, who has been an environmental attorney for 32 years.

Ah, yes. The ol' They-Didn't-Know-54,000-Tons-of-Shingles-Could-Be-Harmful-For-The-Environment Defense.

The judge, who is more of a legal expert than an environmental one, didn't buy it. Not today.

TALES OF DALLAS FROM CITY COLUMNIST ROBERT WILONSKY

Shingle Mountain fight came to City Hall, just as Dallas moved to shut down asphalt recycler

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